

Appl. No. 10/772,177
Reissue Application of U.S. Patent No. 6,676,502
Issued January 13, 2004

Attorney Docket No. P06280US01-169A

REMARKS

Applicant has discovered the existence of certain prior art that has come to the attention of the attorneys of record. An Information Disclosure Statement sheet describing this prior art device was filed on September 3, 2003. This prior art was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement.

At this time, Applicant also filed an amendment after Notice of Allowance under 37 C.F.R. 1.312, also on September 3, 2003. It appears from the record that this amendment was not entered. Accordingly, Applicant is filing this preliminary amendment in the present Reissue application.

It is believed that of the issued claims 1-8, only claims 1 and 2 are impacted by this prior art. Accordingly, Applicant requests that claim 1 be amended and claim 2 be canceled. Additionally, Applicant has amended claim 3 to change its dependency from canceled claim 2 to independent claim 1, thus making claims 3-5 now ultimately dependent on claim 1. Claim 6 has been canceled, as its subject matter has been incorporated into amended claim 1.

Applicant asserts that independent amended method claim 1 and independent apparatus claim 8 are novel and not obvious in view of the prior art. Specifically, claims 1 and 8 recite a "brake element" to hold the sleeve "against longitudinal movement while the stuffing tube is withdrawn." As can be seen in Fig. 4 of the present application, the brake element 40 permits the sleeve 30 to fall away from stuffing tube 14 when the stuffing tube 14 is longitudinally withdrawn from the sleeve 30. Also, as can be seen in Fig. 5, the brake element 40 is designed to "selectively" hold the sleeve as recited by

Appl. No. 10/772,177
Reissue Application of U.S. Patent No. 6,676,502
Issued January 13, 2004

Attorney Docket No. P06280US01-169A

independent claims 1 and 8. Conversely, the cited prior art either lacks the element for holding the sleeve against longitudinal movement, or if they do provide such an element, there is no teaching or suggestion that the element "selectively" hold the sleeve. The structural difference of "selectively holding" as recited in Applicant's claims 1 and 8 provides the functional advantage of permitting the sleeve to fall from the supporting condition on the stuffing tube when the stuffing tube is longitudinally withdrawn from the sleeve. Accordingly, Applicant asserts that independent claims 1 and 8 are novel and not obvious in view of the cited references. Likewise, claims 3-5 are also novel and not obvious in view of the cited references due at least to their dependence on independent claim 1.

Further, none of the cited documents are relevant to independent claim 7, which recites that there be "an elongated slot on the sleeve and extending the length of the sleeve ...". Applicant notes, that the international search report cited no art relevant to PCT dependent claim 8, which is similar in scope to the issued U.S. independent apparatus claim 7. Accordingly, independent claim 7 is novel and not obvious in view of the cited references.

Also submitted with this amendment is a corrected Reissue Application Declaration of the Inventor.

CONCLUSION

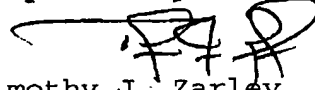
In view of the above amendments and remarks, applicant believes that claims 1, 3-5, and 7-8 are in condition for allowance, and Applicant respectfully requests allowance of such claims. If any issues remain that may be expeditiously addressed in a telephone interview, the Examiner is encouraged to telephone the undersigned at 515-558-0200.

Appl. No. 10/772,177
Reissue Application of U.S. Patent No. 6,676,502
Issued January 13, 2004

Attorney Docket No. P06280US01-169A

Any fees or extensions of time believed to be due in connection with this amendment are enclosed with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 50-2098.

Respectfully submitted,



Timothy J. Zarley
Reg. No. 45,253
ZARLEY LAW FIRM, P.L.C
Capital Square
400 Locust Street, Suite 200
Des Moines, IA 50309-2350
Phone No. 515/558-0200
Fax No. 515/558-7790
Attorneys of Record

TJZ/jlk

PTO/SB/51 (07-03)

Approved for use through 01/31/2004. OMB 0651-0033

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REISSUE APPLICATION DECLARATION BY THE INVENTOR	Docket Number (Optional) P06280US1-169A
--	--

I hereby declare that:
Each inventor's residence, mailing address and citizenship are stated below next to their name.
I believe the inventors named below to be the original and first inventor(s) of the subject matter which is described and claimed in patent number 6,676,502, granted January 13, 2004 and for which a reissue patent is sought on the invention entitled Method and Means for Stuffing Natural Casings With Sausage Emulsion the specification of which

☒ is attached hereto.

☐ was filed on _____ as reissue application number _____ and was amended on _____ (If applicable)

I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.
I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

☐ I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b). Attached is form PTO/SB/02B (or equivalent) listing the foreign applications.

I verily believe the original patent to be wholly or partly inoperative or invalid, for the reasons described below. (Check all boxes that apply.)

☐ by reason of a defective specification or drawing.

☒ by reason of the patentee claiming more or less than he had the right to claim in the patent.

☒ by reason of other errors.

At least one error upon which reissue is based is described below. If the reissue is a broadening reissue, such must be stated with an explanation as to the nature of the broadening:
On September 3, 2003, Applicant filed an Amendment After Notice of Allowance Under 37 C.F.R. Section 1.312 along with an IDS in view of prior art found in a co-pending PCT Application. The file history indicates that the IDS was entered, but the amendment was not considered. Subsequently, Patent 6,676,502 issued from the above application without the proper amendment, and with claim 1 being too broad.
Claim 1 is not patentable without the inclusion of the added limitation.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.175. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/51 (07-03)

Approved for use through 01/31/2004. OMB 0651-0033

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

(REISSUE APPLICATION DECLARATION BY THE INVENTOR, page 2)

Docket Number (Optional)

P06280US1-169A

All errors corrected in this reissue application arose without any deceptive intention on the part of the applicant.

Note: To appoint a power of attorney, use form PTO/SB/81.

Correspondence Address: Direct all communications about the application to:

☒ Customer Number: 34082

OR

☐ Firm or Individual Name

Address

Address

City

State

Zip

Country

Telephone

Fax

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

Full name of sole or first inventor (given name, family name)

Steven P. Hergott

Inventor's signature

x *Steven P. Hergott*

Date

x JAN 30 2004

Residence

West Des Moines, Iowa

Citizenship

U.S.

Mailing Address

5113 Wistful Vista Drive, West Des Moines, Iowa 50265

Full name of second joint inventor (given name, family name)

David S. Hamblin

Inventor's signature

x *David S. Hamblin*

Date

x JAN 28 2004

Residence

Norwalk, Iowa

Citizenship

United Kingdom

Mailing Address

5213 Clearwater Drive, Norwalk, Iowa 50211-1776

Full name of third joint inventor (given name, family name)

Michael J. Hardy

Inventor's signature

x *Michael J. Hardy*

Date

x JAN 28 2004

Residence

West Des Moines, Iowa

Citizenship

U.S.

Mailing Address

2100 Grand Avenue, #15, West Des Moines, Iowa 50265

☐ Additional joint inventors or legal representative(s) are named on separately numbered sheets forms PTO/SB/02A or 02LR attached hereto.

[Page 2 of 2]